



POSTAL REGULATORY COMMISSION

[Docket No. N2022-1; Order No. 6124]

Service Standard Changes

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is acknowledging a recently-filed Postal Service request for an advisory opinion on the service standards for Retail Ground and Parcel Select Ground. This document invites public comments on the request and addresses several related procedural steps.

DATES: *Notices of intervention are due:* April 4, 2022; *Live WebEx Technical Conference:* March 31, 2022, at 11:00 a.m., Eastern Daylight Time, Virtual.

ADDRESSES: Submit notices of intervention electronically via the Commission's Filing Online system at <http://www.prc.gov>. Persons interested in intervening who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

On March 21, 2022, the Postal Service filed a request for an advisory opinion from the Commission regarding planned changes to the service

standards for Retail Ground (RG) and Parcel Select Ground (PSG).¹ RG “is an economical ground shipping solution for retail (single-piece) customers for packages, thick envelopes, and tubes weighing less than 70 pounds and up to 130 inches combined length and girth that are not required to be sent as First-Class Mail.”² PSG is similar to RG but targeted at large- and medium-sized commercial shippers. Request at 2; Notice at 1 n.2. The Postal Service proposes to upgrade the service standards for RG and PSG from the current 2- to 8-day standard to a 2- to 5-day standard. Request at 2.

The intended effective date of the Postal Service’s planned changes is no earlier than 90 days after the filing of the Request. *Id.* at 5. The Request was filed pursuant to 39 U.S.C. 3661 and 39 CFR part 3020. Before issuing its advisory opinion, the Commission shall accord an opportunity for a formal, on-the-record hearing pursuant to 5 U.S.C. 556 and 557. 39 U.S.C. 3661(c). This order provides information on the Postal Service’s planned changes, explains and establishes the process for the on-the-record hearing, and lays out the procedural schedule to be followed in this case.

II. Pre-Filing Issues

On March 23, 2021, the Postal Service published a 10-year strategic plan announcing potential changes intended to achieve financial stability and service excellence.³ In furtherance of this plan, on March 4, 2022, the Postal Service

¹ United States Postal Service’s Request for an Advisory Opinion on Changes in the Nature of Postal Services, March 21, 2022 (Request).

² *Id.* at 2; *see also* Notice of Pre-Filing Conference, March 4, 2022, at 1 n.1 (Notice).

³ *See* United States Postal Service, Delivering for America: Our Vision and Ten-Year Plan to Achieve Financial Sustainability and Service Excellence, March 23, 2021, at 3, available at https://about.usps.com/what/strategic-plans/delivering-for-america/assets/USPS_Delivering-For-America.pdf (Postal Service’s Strategic Plan). Further information related to the Postal Service’s Strategic Plan is available at <https://about.usps.com/what/strategic-plans/delivering-for-america/>.

filed a notice of its intent to conduct a pre-filing conference regarding its proposed changes to the service standards for RG and PSG. Notice at 1.

On March 8, 2022, the Commission issued Order No. 6115, which established Docket No. N2022-1 to consider the Postal Service's proposed changes, notified the public concerning the Postal Service's pre-filing conference, and appointed a Public Representative.⁴ Due to the COVID-19 pandemic, the Postal Service held its pre-filing conference virtually on March 15, 2022, from 1:00 p.m. to 2:00 p.m. Eastern Daylight Time (EDT). See Request at 8. The Postal Service certifies that it has made a good faith effort to address concerns of interested persons about the Postal Service's proposal raised at the pre-filing conference. See *id.*

III. The Request

A. The Postal Service's Planned Changes

Currently, for end-to-end package service within the contiguous United States, RG and PSG have a service standard ranging from 2 to 8 days. *Id.* at 3. The Postal Service plans to upgrade that service standard to correspond with the 2- to 5-day service standard for First-Class Package Service (FCPS) considered by the Commission in Docket No. N2021-2. *Id.* at 2, 3. The Postal Service asserts that the proposed change would simplify the operational scheme for processing and transporting RG and PSG package volume within the contiguous United States by combining it with FCPS volume. *Id.* at 3. Table 1 below compares the current to the new service standards.

⁴ Notice and Order Concerning the Postal Service's Pre-Filing Conference, March 8, 2022 (Order No. 6115).

Table 1
Comparison of Current Standards with Proposed Standards

Service Standard	Current Rules (Contiguous US)	Planned Rules (Contiguous US)
2-day	If Origin and Destination Processing and Distribution Center (PDC) are the same facility, then Service Standard is 2 days.	Intra-SCF and Origin to Destination pairs where total transit time is up to 8-hrs* (~372 miles) from Origin to Destination ADC to Destination SCF.
3-day	If Origin and Destination Processing and Distribution Center (PDC) are not the same facility, then the package is routed through a Network Distribution Center (NDC) and an Auxiliary Service Facility (ASF), if needed. If Origin and Destination NDC are the same, and there is no ASF required, then Service Standard is 3 days.	Where the total transit time is greater than 8-hrs and up to 32-hrs* (~1,488 miles) from Origin PDC to Destination ADC to Destination SCF.
4-day	If Origin and Destination NDC are the same, and there is an ASF required, then Service Standard is 4 days.	Where the total transit time is greater than 32-hrs and up to 50-hrs* (~2,325 miles) from Origin PDC to Destination ADC to Destination SCF.
5-day	If Origin and Destination NDC are not the same, determine the travel days between NDC facilities. If an ASF is not required, and the travel time between NDC facilities is 1 day or less, then the Service Standard is 5 days.	Where the total transit time is greater than 50-hrs from Origin PDC to Destination ADC to Destination SCF.
6-8-day	If Origin and Destination NDC are not the same, determine the travel days between NDC facilities within Service Standard Directory (SSD). If ASF is not required, then the Service Standard = travel time of 2 or more + 4. If ASF is required, then the Service Standard = travel time of 2 or more + 5.	N/A

Source: *Id.* at 3.

The Postal Service asserts that the proposed service standards “are predicated on the planned change to the FCPS service standards and the concomitant improvement and optimization of the Postal Service’s package processing and surface transportation network and depends on consolidation with FCPS domestic surface volumes.”⁵

However, the Postal Service notes that certain packages are not included in the planned service standards, including RG and PSG packages sent to or from domestic locations outside the contiguous United States, packages containing hazardous materials, and live animals shipped by RG. *Id.* at 4-5.

⁵ *Id.* at 4. The Postal Service states that the change to FCPS has not yet been implemented but would be implemented before or at the same time as the RG and PSG service standard changes proposed in this docket. Notice at 2 n.4.

B. The Postal Service's Position

The Postal Service states that its fundamental rationale for the proposed changes is to enhance service to customers sending larger packages. *Id.* at 6. It asserts that by consolidating RG and PSG volume with FCPS volume, it can offer faster service for packages that exceed the weight and size limitations of FCPS. *Id.* The Postal Service submits that the proposed changes will result in further improvement and rationalization of its portfolio of package products. *Id.* It notes that the market for faster, economical ground shipping products has seen significant growth recently and is expected to continue to grow. *Id.* at 7.

Additionally, the Postal Service contends that shifting RG and PSG volume to follow FCPS volume would enable the further optimization of its package processing and surface transportation networks in three ways. *Id.* First, it asserts that the added volume would fill existing unused capacity, maximizing surface transportation utility and value. *Id.* Second, the Postal Service states that, by eliminating the current interim processing stops, it can reduce the overall processing burden while improving speed and reliability by reducing touch points. *Id.* Third, it asserts that by combining multiple sorts, the proposed change would improve volume and capacity in surface lanes. *Id.*

Moreover, the Postal Service asserts that the proposed changes will continue to achieve the broader policies of title 39, United States Code. *See id.* at 7-8. The Postal Service discusses how the proposed changes would continue to satisfy the universal service provisions appearing in 39 U.S.C. 101, 403, and 3661(a) under the proposed service standards. *See id.* The Postal Service also asserts that the proposed changes would not impair compliance with the policies of 39 U.S.C. 3633, which govern the financial performance of competitive products. *See id.* at 8. The Postal Service further asserts that the proposed

changes will not cause any undue or unreasonable discrimination against any users of the mail. See *id.*

C. The Postal Service's Direct Case

The Postal Service is required to file its direct case along with the Request. See 39 CFR 3020.114. The Postal Service's direct case includes all of the prepared evidence and testimony upon which the Postal Service proposes to rely on in order to establish that its proposal accords with and conforms to the policies of title 39, United States Code. See *id.* The Postal Service provides the direct testimony of three witnesses and identifies a fourth individual to serve as its institutional witness and provide information relevant to the Postal Service's proposal that is not provided by other Postal Service witnesses.

Table 2
Postal Service Witnesses

Witness	Topic(s)	Designation
1. Steven E. Jarboe	<ul style="list-style-type: none">• Description of the RG and PSG products• Market conditions• The need for improving service• The customer base• Anticipated impacts of the proposed service standard changes to the subject market and to customers	USPS-T-1
2. Kevin P. Bray	<ul style="list-style-type: none">• The overall impact of the proposed service standard changes on the Postal Service's financial situation• The changes with regard to operational flow and transportation method	USPS-T-2
3. Dr. A. Thomas Bozzo	<ul style="list-style-type: none">• Methodology used to estimate potential annual cost impact from the proposed service standards• Estimated change in cost	USPS-T-3
4. Sharon Owens	<ul style="list-style-type: none">• Institutional witness capable of providing information relevant to the Postal Service's proposal that is not provided by other Postal Service witnesses	None filed

Source: Request at 8-10.

Additionally, the Postal Service filed five library references, one of which is available to the public and four of which are designated as non-public material.

Table 3
Postal Service Library References

Designation	Title	Sponsoring Witness
• USPS-LR-N2022-1-1	Cost Information	A. Thomas Bozzo
• USPS-LR-N2022-1-NP1	Market Analysis	Steven E. Jarboe
• USPS-LR-N2022-1-NP2	Commercial Shipper Survey	Steven E. Jarboe
• USPS-LR-N2022-1-NP3	Mail Processing and Transportation Cost Information	A. Thomas Bozzo
• USPS-LR-N2022-1-NP4	Service Standard Impact Analysis	Kevin P. Bray

Note: The Postal Service filed the four non-public library references under seal (shaded in the above table), asserting that they consist of a number of different types of commercially sensitive information, including market research developed by external firms on behalf of the Postal Service; data that reveal cost, volume, and modes of transportation for competitive products; and detailed cost information regarding mail processing and purchased transportation. See Notice of United States Postal Service of Filing of Library References and Application for Non-Public Treatment, March 21, 2022, Application of the United States Postal Service for Non-Public Treatment at 1, 3-7.

Source: Notice of United States Postal Service of Filing of Library References and Application for Non-Public Treatment, March 21, 2022.

IV. Initial Administrative Actions

A. General Procedures

The procedural rules in 39 CFR part 3020 apply to Docket No. N2022-1. Before issuing its advisory opinion, the Commission shall accord an opportunity for a formal, on-the-record hearing pursuant to 5 U.S.C. 556 and 557. 39 U.S.C. 3661(c). The Commission will sit *en banc* for Docket No. N2022-1. See 39 CFR 3020.122(b). Due to the COVID-19 pandemic, the Commission is conducting all business, including any hearing or public meeting for Docket No. N2022-1 virtually and not in person.

B. Scope

Docket No. N2022-1 is limited in scope to the specific changes proposed by the Postal Service in its Request. See 39 CFR 3020.102(b). To the extent that participants raise alternative proposals and present reasons why those alternatives may be superior to the Postal Service's proposal, the Commission

would interpret such discussion as critiquing the specific changes proposed by the Postal Service in its Request.⁶ However, the Commission would not evaluate or opine on the merits of such alternative proposals in its advisory opinion. See Order No. 2080 at 18. Pursuant to its discretion, the Commission may undertake evaluation of alternatives or other issues raised by participants in separate proceedings (such as special studies or public inquires). See 39 CFR 3020.102(b). Moreover, any interested person may petition the Commission to initiate a separate proceeding (such as a rulemaking or public inquiry) at any time. See 39 CFR 3010.201(b) (initiation of notice and comment proceedings).

C. Designation of Presiding Officer

Pursuant to 39 CFR 3010.106 and 3020.122(b), the Commission appoints Chairman Michael Kubayanda to serve as presiding officer in Docket No. N2022-1, effective immediately. In addition to the authority delegated to the presiding officer under 39 CFR 3010.106(c), the Commission expands the presiding officer's authority to allow him to propound formal discovery requests upon any party, at his discretion. The numerical limitation on interrogatories appearing in 39 CFR 3020.117(a) shall not apply to the presiding officer. The Commission also authorizes Chairman Kubayanda to rule on procedural issues such as motions for late acceptance and discovery-related matters such as motions to be excused from answering discovery requests. Chairman Kubayanda shall have authority to issue any ruling in this docket not otherwise specifically reserved to the Commission by 39 CFR 3020 and 3010.106.

D. Procedural Schedule

⁶ See Docket No. RM2012-4, Order Adopting Amended Rules of Procedure for Nature of Service Proceedings Under 39 U.S.C. 3661, May 20, 2014, at 18 (Order No. 2080).

The Commission establishes a procedural schedule, which appears below the signature of this order. See 39 CFR 3010.151, 3020.110; see *also* 39 CFR part 3020 Appendix A. These dates may be changed only if good cause is shown, if the Commission later determines that the Request is incomplete, if the Commission determines that the Postal Service has significantly modified the Request, or for other reasons as determined by the Commission. See 39 CFR 3020.110(b) and (c).

E. How to Access Material Filed in this Proceeding

1. Using the Commission's Website

The public portions of the Postal Service's filing are available for review on the Commission's website (<http://www.prc.gov>). The Postal Service's electronic filing of the Request and prepared direct evidence effectively serves the persons who participated in the pre-filing conference. See 39 CFR 3020.104. Other material filed in this proceeding will be available for review on the Commission's website, unless the information contained therein is subject to an application for non-public treatment.

2. Using Methods Other than the Commission's Website

The Postal Service must serve hard copies of its Request and prepared direct evidence "only upon those persons who have notified the Postal Service, in writing, during the pre-filing conference(s), that they do not have access to the Commission's website." 39 CFR 3020.104. If you demonstrate that you are unable to effectively use the Commission's Filing Online system or are unable to access the internet, then the Secretary of the Commission will serve material filed in Docket No. N2022-1 upon you via First-Class Mail. See 39 CFR 3010.127(b) and (c). You may request physical service by mailing a document demonstrating your need to the Office of Secretary and Administration, Postal

Regulatory Commission, 901 New York Avenue NW, Suite 200, Washington, DC 20268-0001. Service may be delayed due to the impact of the COVID-19 pandemic. Pursuant to 39 CFR 3010.127(c), the Secretary shall maintain a service list identifying no more than two individuals designated for physical service of documents for each party intervening in this proceeding. Accordingly, each party must ensure that its listing is accurate and should promptly notify the Secretary of any errors or changes. See 39 CFR 3010.127(c).

3. Non-Public Material

The Commission's rules on how to file and access non-public material appear in 39 CFR part 3011. Each individual seeking non-public access must familiarize themselves with these provisions, including the rules governing eligibility for access; non-dissemination, use, and care of the non-public material; sanctions for violations of protective conditions; and how to terminate or amend access.⁷ Any person seeking access to non-public material must file a motion with the Commission containing the information required by 39 CFR 3011.301(b)(1)-(4). Each motion must attach a description of the protective conditions and a certification to comply with protective conditions executed by each person or entity (and each individual working on behalf of the person or entity) seeking access. 39 CFR 3011.301(b)(5)-(6). To facilitate compliance with 39 CFR 3011.301(b)(5)-(6), a template Protective Conditions Statement and Certification to Comply with Protective Conditions appears below the signature of this order as Attachment 2, for completion and attachment to a motion for access. See 39 CFR part 3011 Subpart C, Appendix A. Persons seeking access to non-public material are advised that actual notice provided to the

⁷ See 39 CFR 3011.300, 3011.302-304.

Postal Service pursuant to 39 CFR 3011.301(b)(4) will expedite resolution of the motion, particularly if the motion for access is uncontested by the Postal Service.

Non-public information must be redacted from filings submitted through the Commission's website; instead, non-public information must be filed under seal as required by 39 CFR part 3011 subpart B.

F. How to File Material in this Proceeding

1. Using the Commission's Filing Online system

Except as provided in 39 CFR 3010.120(a), all material filed with the Commission shall be submitted in electronic format using the Filing Online system, which is available over the internet through the Commission's website. The Commission's website accepts filings during the Commission's regular business hours, which are from 8:00 a.m. through 4:30 p.m. EDT, except for Saturdays, Sundays, and Federal holidays. A guide to using the Filing Online system, including how to create an account, is available at <https://www.prc.gov/how-to-participate>. If you have questions about how to use the Filing Online system, please contact the dockets clerk by email at dockets@prc.gov or telephone at (202) 789-6847. Please be advised that the dockets clerk can only answer procedural questions but may not provide legal advice or recommendations.

2. Using Methods Other than the Commission's Filing Online system

Material may be filed using a method other than the Commission's website only if at least one of the following exceptions applies:

- The material cannot reasonably be converted to electronic format,
- The material contains non-public information (see 39 CFR part 3011),

- The filer is unable to effectively use the Commission's Filing Online system and the document is 10 pages or fewer, or
- The Secretary has approved an exception to the requirements to use the Commission's Filing Online system based on a showing of good cause.

39 CFR 3010.120(a).

Material subject to these exceptions may be filed by mail to the Office of Secretary and Administration, Postal Regulatory Commission, 901 New York Avenue NW, Suite 200, Washington, DC 20268-0001. Due to the agency's virtual status, posting mailed materials to the Commission's website may be delayed. Accordingly, before mailing materials, it is strongly recommended that individuals contact the dockets clerk by email at *dockets@prc.gov* or telephone at (202) 789-6847.

G. Technical Conference

1. Date and Purpose

A technical conference will be held live via WebEx on March 31, 2022, at 11:00 a.m. EDT.⁸ The technical conference is an informal, off-the-record opportunity to clarify technical issues as well as to identify and request information relevant to evaluating the Postal Service's proposed changes. See 39 CFR 3020.115(c). The technical conference will be limited to information publicly available in the Request. Any non-public information, including information in non-public library references attached to the Request, should not

⁸ On March 23, 2022, the Commission filed an errata to Order No. 6124 correcting the date of the technical conference to March 31, 2022. See Notice of Errata, March 23, 2022 (Notice of Errata), Attachment at 1. The errata also instructs technical conference registrants to resubmit their registration request if they have not yet received a response from the Commission, due to a technical issue on March 23, 2022 that prevented the Commission from receiving some registration requests. Notice of Errata at 1-2.

be raised at the technical conference. At the technical conference, the Postal Service will make available for questioning its three witnesses whose direct testimony was filed along with the Request and a fourth individual to serve as its institutional witness, who will provide information relevant to the Postal Service's proposal that is not provided by other Postal Service witnesses. See Request at 10; *see also* 39 CFR 3020.113(b)(6)-(7), 3020.115(b). The names and topics to which these four individuals are prepared to address are summarized above in Section III.C., Table 1, *infra*.

2. How to Livestream the Technical Conference

The technical conference will be broadcast to the public via livestream, which will allow the public to view and listen to the technical conference, as it is occurring and after. To view and listen to the livestream, on or after 11:00 a.m. EDT on March 31, 2022, an individual must click on the internet link that will be identified on the Commission's YouTube Channel, which is available at <https://www.youtube.com/channel/UCbHvK-S8CJFT5yNQe4MkTiQ>. Individuals do not have to register in advance to access the livestream. Please note that the livestream is a broadcast; therefore, there is a brief delay (several seconds) between the technical conference being captured on camera and being displayed to viewers of the livestream. Additionally, please note that clicking on the livestream link will not allow an individual the opportunity to question the Postal Service's four witnesses. Details on how to participate in the live WebEx (and have the opportunity to question the Postal Service's four witnesses) follow.

3. How to Participate in the Technical Conference

To participate in this live technical conference and have the opportunity to ask questions of the Postal Service's four witnesses, an individual need not formally intervene in this docket, but must register in advance as follows. Each

individual seeking to participate in the live WebEx using an individual device (e.g., a desktop computer, laptop, tablet, or smart phone) must register by sending an e-mail to *N2022-1registration@prc.gov*, with the subject line “Registration” by March 28, 2022. In order to facilitate orderly public participation, this email shall provide the following information:

- your first and last name;
- your e-mail address (to receive the WebEx link);
- the name(s) of the Postal Service’s witness(es) you would like to question and/or the topic(s) of your question(s); and
- your affiliation (if you are participating in your capacity as an employee, officer, or member of an entity such as a corporation, association, or government agency).

The *N2022-1registration@prc.gov* email address is established solely for the exchange of information relating to the logistics of registering for, and participating in, the technical conference.⁹ No information related to the substance of the Postal Service’s Request shall be communicated, nor shall any information provided by participants apart from the list identified above be reviewed or considered. Only documents filed with the Commission’s docket system will be considered by the Commission. Before the technical conference, the Commission will e-mail each identified individual a WebEx link, an explanation of how to connect to the technical conference, and information regarding the schedule and procedures to be followed.

4. Availability of Materials and Recording

⁹ Please refer to the Commission’s privacy policy which is available at <https://www.prc.gov/privacy>.

To facilitate discussion of the matters to be explored at the technical conference, the Postal Service shall, if necessary, file with the Commission any materials not already filed in Docket No. N2022-1 (such as PowerPoint presentations or Excel spreadsheets) that the Postal Service expects to present at the technical conference by March 29, 2022. Doing so will foster an orderly discussion of the matters under consideration and facilitate the ability of individuals to access these materials should technical issues arise for any participants during the live WebEx. If feasible, the recording will be available on the Commission's YouTube Channel at <https://www.youtube.com/channel/UCbHvK-S8CJFT5yNQe4MkTiQ>.

Participants in the WebEx, by participating, consent to such recording and posting. Information obtained during the technical conference or as a result of the technical conference is not part of the decisional record, unless admitted under the standards of 39 CFR 3010.322. See 39 CFR 3020.115(e).

H. How to Intervene (Become a Party to this Proceeding)

To become a party to this proceeding, a person or entity must file a notice of intervention by April 4, 2022.¹⁰ This filing must clearly and concisely state: the nature and extent of the intervenor's interest in the issues (including the postal services used), the intervenor's position on the proposed changes in services (to the extent known), whether or not the intervenor requests a hearing, and whether or not the intervenor intends to actively participate in the hearing. See 39 CFR 3010.142(b). Page one of this filing shall contain the name and full mailing address of no more than two persons who are to receive service, when necessary, of any documents relating to this proceeding. See *id.* A party may

¹⁰ Neither the Public Representative nor the Postal Service must file a notice of intervention; both are automatically deemed parties to this proceeding. See 39 CFR 3010.142(a).

participate in discovery; file testimony and evidence; conduct written examination of witnesses; conduct limited oral cross-examination; file briefs, motions, and objections; and present argument before the Commission or the presiding officer. See *id.* sections 3010.142(a); 3020.122(e). An opposition to a notice of intervention is due within 3 days after the notice of intervention is filed. See *id.* section 3010.142(d)(2).

I. Discovery

1. Generally Applicable Discovery Procedures

Discovery requests may be propounded upon filing a notice of intervention. Discovery that is reasonably calculated to lead to the admissible evidence is allowed. See 39 CFR 3020.116(a). Each party must familiarize themselves with the Commission's rules appearing in 39 CFR part 3020, including the rules for discovery in N-dockets generally and specific to interrogatories, requests for the production of documents, and requests for admissions.¹¹ No party may propound more than a total of 25 interrogatories (including both initial and follow-up interrogatories) without prior approval by the Commission or presiding officer.¹²

Each answer to a discovery request is due within 7 days after the discovery request is filed.¹³ Any motion seeking to be excused from answering any discovery request is due within 3 days after the discovery request is filed. See 39 CFR 3020.105(b)(1). Any response to such motion is due within 2 days after the motion is filed. See *id.* section 3020.105(b)(2). The Commission expects parties to make judicious use of discovery, objections, and motions

¹¹ See 39 CFR 3020.116-3020.119.

¹² See 39 CFR 3020.117(a); Order No. 2080 at 42; see *also* Docket No. N2021-1, Order Affirming Presiding Officer's Ruling No. N2021-1/9, May 26, 2021, at 9 (Order No. 5901).

¹³ See 39 CFR 3020.117(b)(4), 3020.118(b)(1), 3020.119(b)(1). Filing an opposition to a notice of intervention shall not delay this deadline. See 39 CFR 3010.142(d)(3).

practice, and encourages parties to make every effort to confer to resolve disputes informally before bringing disputes to the Commission to resolve.

2. Discovery Deadlines for the Postal Service's Direct Case

All discovery requests regarding the Postal Service's direct case must be filed by April 18, 2022. All discovery answers by the Postal Service must be filed by April 25, 2022. The parties are urged to initiate discovery promptly, rather than to defer filing requests and answers to the end of the period established by the Commission.

J. Rebuttal Case Deadlines

A rebuttal case is any evidence and testimony offered to disprove or contradict the evidence and testimony submitted by the Postal Service. A rebuttal case does not include cross-examination of the Postal Service's witnesses or argument submitted via a brief or statement of position. Any party that intends to file a rebuttal case must file a notice confirming its intent to do so by April 27, 2022. Any rebuttal case, consisting of any testimony and all materials in support of the case, must be filed by May 2, 2022.

K. Surrebuttal Case Deadlines

A surrebuttal case is any evidence and testimony offered to disprove or contradict the evidence and testimony submitted by the rebutting party. A surrebuttal case does not include cross-examination of the rebutting party's witnesses or argument submitted via a brief or statement of position. Any party that intends to file a surrebuttal case must obtain the Commission's prior approval and must bear the burden of demonstrating exceptional circumstances that would warrant granting the motion. See 39 CFR 3020.121(b). Any motion for leave to file a surrebuttal case is due May 4, 2022. Any response to such

motion is due May 6, 2022. Any surrebuttal case, consisting of any testimony and all materials in support of the case, must be filed by May 9, 2022.

L. Hearing Dates

The Commission expects that this case will require no more than one or two business days for hearing, but reserves three business days out of an abundance of caution and consistent with the pro forma schedule set forth in appendix A of 39 CFR part 3020. If no party files a notice of intent to file a rebuttal case by April 27, 2022, then the hearing of the Postal Service's direct case shall begin May 2, 2022, with additional days reserved on May 3, 2022, and May 4, 2022. If any party files a notice of intent to file a rebuttal case by April 27, 2022 but no surrebuttal testimony will be presented, then the hearing of the Postal Service's direct case shall begin May 9, 2022, with additional days reserved on May 10, 2022, and May 11, 2022. If any party files a notice of intent to file a rebuttal case by April 27, 2022, and the Commission approves the presentation of surrebuttal testimony, then the hearing of the Postal Service's direct case shall begin May 16, 2022, and the hearing of the surrebuttal case shall end May 18, 2022.¹⁴

M. Presentation of Evidence and Testimony

Evidence and testimony shall be in writing and may be accompanied by a trial brief or legal memoranda. *Id.* section 3020.122(e)(1). Whenever possible and particularly for factual or statistical evidence, written cross-examination will be used in lieu of oral cross-examination. *Id.* section 3020.122(e)(2).

¹⁴ The pro forma schedule set forth in appendix A of 39 CFR part 3020 contemplates this hearing scheduled for days 54-56, which would be Saturday May 14, 2022 through Monday May 16, 2022. In accordance with 39 CFR 3020.103, these dates are adjusted to Monday May 16, 2022 through Wednesday May 18, 2022.

Oral cross-examination will be allowed to clarify written cross-examination and/or to test assumptions, conclusions, or other opinion evidence. *Id.* section 3020.122(e)(3). Assuming that no rebuttal case is filed, any party that intends to conduct oral cross-examination shall file a notice of intent to do so by April 25, 2022.¹⁵ The notice must include an estimate of the amount of time requested for each witness.

In lieu of submitting hard copy documents to the Commission as contemplated by 39 CFR 3020.122(e)(2), each party shall file a single document titled “Notice of Designations” containing a list for each witness that identifies the materials to be designated (without the responses). The filing party shall arrange its list for each witness in alphabetical order by the name of the party propounding the interrogatory followed by numerical order of the interrogatory.

For example:

Designations for Witness One

ABC/USPS-T1-1
ABC/USPS-T1-3
DEF/USPS-T1-1
GHI/USPS-T1-3
JKL/USPS-T1-2

Designations for Witness Two

DEF/USPS-T2-4
GHI/USPS-T2-2

Assuming that no rebuttal case is filed, each party shall file its Notice of Designations by April 26, 2022.

Assuming that no rebuttal case is filed, on April 29, 2022, the Postal Service shall file a “Notice of Designated Materials” identifying any corrections to the testimony or designated materials for each witness sponsored by the Postal

¹⁵ Consistent with the necessary adjustments made in Docket Nos. N2021-1 and N2021-2 to conduct a virtual hearing, the Commission adjusts the timeframe contemplated by 39 CFR 3020.122(e)(3) and instead sets this deadline as 7 days before the beginning of the virtual hearing (assuming that no rebuttal case is filed).

Service. Attached to that notice shall be a single Adobe PDF file that contains, in order: the witness's testimony (with any corrections highlighted); identification of any library references sponsored by the witness; and the witness's designated written responses in alphabetical order by the name of the party propounding the interrogatory followed by numerical order of the interrogatory (with any corrections to the responses highlighted).

N. Presentation of Argument

1. General Procedures

Any person that has intervened in Docket No. N2022-1 (and thereby formally became a party to this proceeding) may submit written argument by filing a brief or a statement of position; they also may request to present oral argument at the hearing. See 39 CFR 3020.123; see *also* 39 CFR 3010.142(a). Any person that has not intervened in Docket No. N2022-1 may submit written argument by filing a statement of position. See 39 CFR 3020.123(g); see *also* 39 CFR 3010.142(a).

2. Presentation of Written Argument

A brief is a written document that addresses relevant legal and evidentiary issues for the Commission to consider and must adhere to the requirements of 39 CFR 3020.123(a)-(f). A statement of position is a less formal version of a brief that describes the filer's position on the Request and the information on the existing record in support of that position. See 39 CFR 3020.123(g).

a. Briefing Deadlines

Assuming that no rebuttal case is filed, initial briefs are due May 11, 2022, and reply briefs are due May 18, 2022. If any party files a notice confirming its intent to file a rebuttal case by April 27, 2022, then the briefing schedule may be revised.

b. Deadline for Statement of Position

Any interested person, including anyone that has not filed a notice of intervention and become a party to this proceeding, may file a statement of position. See 39 CFR 3020.123(g); see *also* 39 CFR 3010.142(a). A statement of position is limited to the existing record and may not include any new evidentiary material. See 39 CFR 3020.123(g). Filings styled as a brief or comments, conforming with the content and timing requirements, shall be deemed statements of positions. Any statement of position is due May 11, 2022.

3. Request to Present Oral Argument

Oral argument has not historically been part of N-cases; the Commission would only grant a request to present oral argument upon an appropriate showing of need by the presenting party. See Order No. 2080 at 53. Assuming that no rebuttal case is filed, any party may file a request to present oral argument by April 25, 2022.

O. The Commission's Advisory Opinion

Unless there is a determination of good cause for extension, the Commission shall issue its advisory opinion within 90 days of the filing of the Request. See 39 CFR 3020.102(a). Therefore, absent a determination of good cause for extension, the Commission shall issue its advisory opinion in this proceeding by June 21, 2022.¹⁶ "The opinion shall be in writing and shall include a certification by each Commissioner agreeing with the opinion that in his [or her] judgment the opinion conforms to the policies established under [title 39, United States Code]." 39 U.S.C. 3661(c). The advisory opinion shall address the

¹⁶ Based upon the pro forma schedule set forth in appendix A of 39 CFR part 3020, the advisory opinion should be issued on day 90, which would be Sunday June 19, 2022 and the following day, Monday June 20, 2022 is an observed Federal holiday. Thus, this date is adjusted to Tuesday June 21, 2022, in accordance with 39 CFR 3020.103.

specific changes proposed by the Postal Service in the nature of postal services.

See 39 CFR 3020.102(b).

P. Public Representative

Pursuant to 39 U.S.C. 3661(c), Joseph K. Press shall continue to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding. See Order No. 6115 at 3, 4.

V. Ordering Paragraphs

It is ordered:

1. The procedural schedule for this proceeding is set forth below the signature of this order.

2. Pursuant to 39 CFR 3010.106 and 3020.122(b), the Commission appoints Chairman Michael Kubayanda to serve as presiding officer in Docket No. N2022-1, effective immediately.

3. Chairman Kubayanda is authorized to propound formal discovery requests upon any party, at his discretion. The numerical limitation on interrogatories appearing in 39 CFR 3020.117(a) shall not apply to the Presiding Officer.

4. Chairman Kubayanda is authorized to rule on procedural issues such as motions for late acceptance and discovery-related matters such as motions to be excused from answering discovery requests.

5. Chairman Kubayanda is authorized to make other rulings in this Docket not otherwise specifically reserved to the Commission according to 39 CFR 3020 and 3010.106.

6. Pursuant to 39 U.S.C. 3661(c), Joseph K. Press shall continue to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

7. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

Procedural Schedule for Docket No. N2022-1

(Established by the Commission, March 23, 2022)

Technical Conference Dates:

Deadline to Email <i>N2022-1registration@prc.gov</i> to Register to Participate in the Live Technical Conference via WebEx	March 28, 2022
Filing of the Postal Service's Materials for the Technical Conference	March 29, 2022
Technical Conference (live via WebEx)	March 31, 2022, at 11:00 a.m. Eastern Daylight Time

Intervention Deadline:

Filing of Notice of Intervention	April 4, 2022
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Discovery Deadlines for the Postal Service's Direct Case:

Filing of Discovery Requests	April 18, 2022
Filing of the Postal Service's Answers to Discovery	April 25, 2022

Deadlines in Preparation for Hearing (assuming no rebuttal case):

Filing of Notice Confirming Intent to Oral Conduct Cross-Examination	April 25, 2022
Filing of Request to Present Oral Argument	April 25, 2022
Filing of Notice of Designations	April 26, 2022
Filing of Notices of Designated Materials	April 29, 2022

Rebuttal Case Deadlines (if applicable):	
Filing of Notice Confirming Intent to File a Rebuttal Case	April 27, 2022
Filing of Rebuttal Case	May 2, 2022
Surrebuttal Case Deadlines (if applicable):	
Filing of Motion for Leave to File Surrebuttal Case	May 4, 2022
Filing of Response to Motion for Leave to File Surrebuttal Case	May 6, 2022
Filing of Surrebuttal Case (if authorized)	May 9, 2022
Hearing Dates:	
Hearings (with no Rebuttal Case)	May 2 to 4, 2022
Hearings (with Rebuttal Case, but no authorized Surrebuttal Case)	May 9 to 11, 2022
Hearings (with Rebuttal Case and authorized Surrebuttal Case)	May 16 to 18, 2022
Briefing Deadlines:	
Filing of Initial Briefs (with no Rebuttal Case)	May 11, 2022
Filing of Reply Briefs (with no Rebuttal Case)	May 18, 2022
Statement of Position Deadline:	
Filing of Statement of Position (with no Rebuttal Case)	May 11, 2022
Advisory Opinion Deadline:	
Filing of Advisory Opinion (absent determination of good cause for extension)	June 21, 2022